

STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM HORRY COUNTY
Court of General Sessions
Larry B. Hyman, Jr., Circuit Court Judge

CASE NO: 2013-GS-26-00857

FILED
HORRY COUNTY
2013 JUL 29 PM 3:31
MELANIE HUGGINS-WARD
CLERK OF COURT

The State, Respondent,

V.

Lynel Witherspoon, Appellant.

NOTICE OF APPEAL

Lynel Witherspoon, appeals the conviction and sentence in this case. The sentence was imposed by the Honorable Larry B. Hyman, Jr., on July 25, 2013.

July 29, 2013

Kia Wilson
Public Defender
Horry County Public Defender Office
Post Office Box 1666
Conway, SC 29528
843-915-5385
Attorney for Appellant

Other Counsel of Record

Scott Graustein
Solicitor
Post Office Box 1276
Conway, SC 29528
843-915-5460
Attorney for Respondent

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Melanie Huggins-Ward
CLERK OF COURT
HORRY COUNTY

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JUL 31 2013

SC Court of Appeals

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The State, Respondent,

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PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State of South Carolina by depositing a copy of the Notice in the United States Mail, postage prepaid, on July 31, 2013, addressed to the attorney of record:

Scott Graustein
Solicitor
Post Office Box 1276
Conway, South Carolina, 29528
Attorney For Respondent

July 31, 2013

Kia J. Wilson

Kia Wilson
Public Defender
Horry County Public Defender Office
Post Office Box 1666
Conway, SC 29528
843-915-5385
Attorney for Appellant

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JUL 31 2013

SC Court of Appeals

Fifteenth Circuit Public Defender

HORRY & GEORGETOWN COUNTIES

HORRY

Edward "Ed" Chrisco
CHIEF PUBLIC DEFENDER
203 LAUREL STREET
P.O. Box 1666
CONWAY, SC 29526



Orrie E. West
CIRCUIT PUBLIC DEFENDER

TEL: 843-915-5385
FAX: 843-915-6385

WWW.HGCDEFENDER.ORG

GEORGETOWN
Ronald Hazzard
SENIOR TRIAL ATTORNEY
401 CLELAND STREET
P.O. Box 2898
GEORGETOWN, SC 29440

TEL: 843-545-3671
FAX: 843-545-3673

JULY 29, 2013

The Honorable Jeanette Barber
Clerk of the South Carolina Court Of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: STATE OF SOUTH CAROLINA VS. LYNEL WITHERSPOON
CASE NO: 2013-GS-26-00857

Dear Ms. Barber:

Enclosed for filing is a Notice of Appeal in the above criminal case. Also enclosed are the following:

1. Proof of Service of the Notice of Appeal on the Respondent.
2. A copy of the Order(s)/ Sentence Sheet(s) which is/are to be challenged on appeal.
3. Self-addressed stamped envelope

I would appreciate your filing the Notice of Appeal, as well as the Proof of Service, and returning to me the date-stamped copies in the enclosed self addressed envelope.

If you have any questions concerning this matter please contact me.

Sincerely,

Kia Wilson
Horry County Public Defender
Post Office Box 1666
Conway, South Carolina, 29528
Phone: 843-915-5385

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JUL 31 2013

SC Court of Appeals

WITNESSES

ert Pellerin 15th Circuit Drug Enforcement Unit

HORRY COUNTY

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MELANIE HIGGINS WARD
CLERK OF COURT

REST WARRANT NUMBER

11911

R: 0185 44-53-0370(b)(1)
A: 9/14/2012

TION OF GRAND JURY

EMIL

FEB 29 2013

person of Grand Jury

RDICT

person of Petit Jury

DOCKET NO. 2013-GS-26- **00857**

The State of South Carolina

County of Horry

Scott A. Graustein

12H04311

COURT OF GENERAL SESSIONS

FEBRUARY, 2013 TERM

THE STATE

VS.

Lynel Witherspoon

B/M

200 Rittenhouse Road

Myrtle Beach, SC 29588

DOB: 1979-03-18

SSN: 048689133

ATTORNEY: Wilson, Kia T.

Indictment for

DISTRIBUTION OF COCAINE

Jimmy A. Richardson, II, Solicitor

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2013 JUL 29 PM 3: 35
Melanie Higgins-Ward
CLERK OF COURT
HORRY COUNTY

ORIGINAL

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF GENERAL SESSIONS
OF THE FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

CERTIFICATE OF REPRESENTATION
(APPOINTING AS COUNSEL)

-VS-

LYNEL WITHERSPOON

KIA WILSON

DEFENDANT)

FILE NO: 26A12-00003173

SSN: 048-68-9133

TO: Court of General Sessions of the Fifteenth Judicial Circuit
Office of the Solicitor
Appointed Counsel
Defendant

This certifies that the above captioned Defendant is eligible for the services of the Public Defender, such determination having been made on, 25th day of October, 2012, regarding the charge(s) of:

M-841911 Drugs / MDP, Narcotic drugs in Sch. I(b) & (c), LSD, and Sched. III
(Cocaine)- 3rd or sub. offense

The Defendant's Counsel is **Kia Wilson**. The office of the Public Defender requests on the Defendant's behalf any and all evidence in the possession of you and or your agents pursuant to S.C. Criminal Practice Rule 5, and Brady v. Maryland 373 U.S. 383 (1963). The formal Motion for Discovery is attached.

CONWAY, SC
DATED: October 25, 2012

ORRIE E. WEST
FIFTEENTH CIRCUIT
PUBLIC DEFENDER

FILED
HORRY COUNTY
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CLERK OF COURT

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CLERK OF COURT

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2013 JUL 29 PM 3:35
MELANIE HUSTON
CLERK OF COURT
HORRY COUNTY

STATE OF SOUTH CAROLINA)
COUNTY OF Horry)
STATE OF SOUTH CAROLINA)
-VS-)
LYNEL WITHERSPOON)
DEFENDANT)

IN THE COURT OF GENERAL SESSIONS
OF THE FIFTEENTH JUDICIAL CIRCUIT
NOTICE AND MOTION FOR PRODUCTION
OF SPECIFIC EVIDENCE AND
DISCLOSURE OF WITNESSES

FILE NO: 26A12-00003173
SSN: 048-68-9133

TO: SOLICITOR FOR THE FIFTEENTH JUDICIAL CIRCUIT

YOU WILL PLEASE TAKE NOTICE that unless the prosecution responds to the Defendant's request for disclosure within 30 days, or within such time as may be ordered by the Court, Counsel for the Defendant will move this Court for an Order compelling that the State:

1. Make available for Defendant any and all written and oral statements by the Defendant which are, or may come to be, in the possession of the State.
2. Make available for purposes of inspection, and copying, any and all police reports relating to the investigation and circumstances surrounding the crime which the Defendant is charged with, including any and all statements taken from witnesses and the Defendant.
3. Make available to the Defendant all tangible objects obtained during the investigation of this case, including, but not limited to:
 - (a) All tangible objects obtained from the scene of the crime; and
 - (b) All tangible objects obtained from the State's witnesses in this case
 - (c) All tangible objects the State intends to introduce into evidence at Trial which are relevant to the offense charged.
4. Make available any witnesses known to the State who have knowledge of facts which might be favorable to the Defendant.
5. Make available any promises made or actions taken by the State which induce or might have caused any witnesses for the State to testify on behalf of the State.
6. Make available any inconsistent statements made by witnesses for the State or any statements made by witnesses for the State which tend to exculpate the Defendants or to negate participation by the Defendants in the alleged crime.
7. Make available to the Defendant all results of laboratory tests, scientific tests, or physical examinations conducted in connection with this case, including but not limited to:
 - (a) Analysis of handwriting
 - (b) Photographs secured of the scene of the crime
 - (c) Comparison of fingerprints

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8. Make available any facts which tend to exculpate the Defendant.
9. Make available any and all scientific or medical, psychiatric, legal or other information, reports or records which might tend to reflect on the credibility or competence of any of prospective witnesses for the State.
10. Make available to the Defendant the names and addresses of all persons who have knowledge of this case or who have been interviewed by the investigating officers in connection with this case.
11. Make available to the Defendant, the SLED, FBI, and local arrest and conviction records of all persons, including the Defendant, named in connection with this proceeding.
12. Make any chemist, analyst, and all persons within the chain of custody appear in Court for the purpose of personally testifying. Attorney for the Defense thus objects to the introduction of any chemist's or analyst's report pursuant to Rule 6, S.C. Rules of Criminal Procedure.

This information is requested pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure. This information is further requested pursuant to Brady vs Maryland, 373 U.S. 383, 10 L. Ed. 2d 215, 83 S. Ct. 1194 (1963), U.S. vs Agurs, 427 U.S. 97, 49 L Ed 2nd 342, 96 S. Ct. 2392 1976, State vs Mixon 274 S.E. 2nd 406 (1981). Further this information is requested on the grounds that it is essential to insure the Defendant's right to a fair trial, right to confrontation of witnesses, the right to effective Counsel and due process of law guaranteed by the South Carolina Constitution, and the United States Constitution.

WHEREFORE, Defendant prays:

- (a) That the Solicitor be Ordered to produce all information described herein and allow the Defendant the right to examine, inspect, copy and photograph, such materials and information at a specific time and place to be fixed by the Court.
- (b) That the information be provided no later than 30 days from the date of this request, as reflected by the Clerk of Court's time-stamp appearing on the face of this Document.
- (c) That the Court enter an Order requiring the Solicitor's Office to make continuing disclosure of all matters requested herein up to and during the Trial of the charges against the Defendant.

RESPECTFULLY SUBMITTED,



ORRIE E. WEST
FIFTEENTH CIRCUIT
PUBLIC DEFENDER

DATED: October 25, 2012
CONWAY, SOUTH CAROLINA

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Clerk of Court
Horry County